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Paper No.

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MAR 24 2006

OFFICE OF PETITIONS

In re Patent No. 6,917,608	:	
David Weigand	:	DECISION ON REQUEST
Issue Date: July 12, 2005	:	FOR RECONSIDERATION OF
Application No. 09/746,903	:	PATENT TERM ADJUSTMENT
Filed: December 22, 2000	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
68135469.206800/P04793	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT" filed September 8, 2005. Patentee requests that the Patent Term Adjustment for the above-identified patent be afforded a patent term adjustment of 874 days.

The request for reconsideration of the patent term adjustment indicated in the patent is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **eight hundred seventy-four (874)** days.

On July 12, 2005, the above-identified application matured into U.S. Patent No. 6,917,608. The instant request for reconsideration filed September 8, 2005 was timely filed within

2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 754 days. Patentees dispute the reduction of 120 days associated with the filing of a miscellaneous paper on December 13, 2004. Patentee states that this paper was a power of attorney (filed by an assignee) with the required 3.73(b) statement, and thus, pursuant to the OG Notice published June 26, 2001, *Clarification of 37 C.F.R. 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, no reduction is warranted.

Patentee's contention is well taken. The OG Notice states that:

... the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

In view thereof, the patent term adjustment indicated on the patent should be eight hundred seventy-four (874) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by EIGHT HUNDRED SEVENTY-FOUR (874) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,917,608 B1
DATED : July 12, 2005
INVENTOR(S) : Weigand

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (754) days

Delete the phrase "by 754" and insert – by 874 days--